

Aug 12, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSE CONTRERAS,

Plaintiff,

v.

WASHINGTON STATE,

Defendant.

NO: 2:18-CV-368-RMP

ORDER DISMISSING ACTION

By Order filed April 22, 2019, the Court advised Plaintiff of the deficiencies of his initial Complaint, as well as the deficiencies of his First and Second Amended Complaints, and directed him to file a Third Amended Complaint or Voluntarily Dismiss within sixty days, ECF No. 13. On June 26, 2019, the Court denied Plaintiff's subsequent Motion to Proceed with the Second Amended Complaint and his construed Motion for Recusal of the undersigned judicial officer. ECF No. 15. At that time, the Court extended Plaintiff's deadline to amend or voluntarily dismiss until July 26, 2019. Plaintiff did not file a Third Amended Complaint as directed and has filed nothing further in this action.

ORDER DISMISSING ACTION ~ 1

1 For the reasons set forth above and in the Court’s prior Orders, ECF Nos. 13
2 and 15, **IT IS ORDERED** that this action is **DISMISSED** for failure to state a
3 claim upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and
4 1915A(b)(1), but **without prejudice** to Plaintiff pursuing appropriate state
5 appellate and federal habeas relief.

6 Under *Washington v. L.A. Cty. Sheriff’s Dep’t*, 833 F.3d 1048, 1056–57 (9th
7 Cir. 2016), this dismissal will **NOT** count as a “strike” under 28 U.S.C. § 1915(g).
8 The Court certifies that any appeal of this dismissal would not be taken in good
9 faith.

10 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this
11 Order, enter judgment for Defendants, provide a copy to Plaintiff at his last known
12 address, and close the file.

13 **DATED** August 12, 2019.

14
15 *s/ Rosanna Malouf Peterson*
16 ROSANNA MALOUF PETERSON
17 United States District Judge
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